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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)
)
Amendment of the Commission's Rules) GN Docket No. 96-228
to Establish Part 27, the Wireless)
Communications Service ("WCS"))

BELL ATLANTIC REPLY COMMENTS

Bell Atlantic Corporation respectfully replies to the comments on the Commission's Notice of Proposed Rulemaking in this proceeding to adopt rules for the new "Wireless Communications Service" in the 2.3 GHz band (FCC 96-441, released November 12, 1996). The NPRM sought comment on the geographic scope of the service areas for the new WCS licenses. Bell Atlantic strongly endorses the overwhelming record support for designating MTAs, BTAs or EAs as the service areas, and it opposes the award of larger regional or nationwide licenses.

The record is replete with reasons why awarding smaller service areas will achieve the goals of the Communications Act and the recent legislation mandating the licensing of the 2.3 GHz spectrum. The record is equally compelling as to why nationwide or regional licenses will not only fail to achieve those goals but will in fact disserve the public interest. Commenters show that such large licenses will discourage and delay service to rural areas and smaller cities, frustrate new, innovative and public safety services, and shut the door to smaller entities who would otherwise have participated in the auction.

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Only one commenter, the Markle Foundation, recommends a nationwide licensing scheme. It envisions WCS as a nationwide wireless data service which would increase industry productivity, promote advances in education, and offer health care efficiencies. While broad availability of data services will help to promote these objectives,¹ a nationwide license is not required to ensure that services are available nationwide. To the contrary, smaller service areas such as MTAs or BTAs will far more effectively promote these objectives because they more closely emulate the localized nature of the markets they are intended to serve. Smaller license areas can achieve all of the public interest benefits Markle cites, but are free of the many serious problems inherent with nationwide licenses.

1. Service to Rural Areas and Smaller Communities. The record shows that smaller license areas will benefit rural America and more effectively fulfill universal service objectives under the 1996 Act.² By adopting license areas that more closely match the size and needs of local areas, the Commission will promote access to advanced telecommunications and information services in rural areas

¹Bell Atlantic recognizes the emergence of data services as an important segment of the telecommunications services market, and is designing its network to accommodate such services. Other segments of the industry are also responding to the demand for new data services, as witnessed by the recent growth in deployment of Cellular Digital Packet Data throughout the nation.

²Section 254(b)(2) states that one of the principles of universal service is to ensure access to advanced telecommunications and information services in all regions of the nation. Also, Section 254(h)(1)(A) requires telecommunications carriers to provide services which are necessary for the provision of health care services to rural health care providers "at rates which are reasonably comparable to rates charged for similar services in urban areas." WCS may represent one means for telecommunications carriers to meet this obligation.

and improve the availability of affordable telecommunications services to rural health care providers. Nationwide licenses will, in contrast, be far less likely to result in service to rural areas.³ This problem is not confined to rural areas. Smaller cities would be the focus of BTAs or other smaller service areas. With a nationwide license, however, the focus would be on service to the nation's largest cities. Thus, service to smaller cities as well as rural areas would be delayed.⁴

2. *Flexible Use.* A licensing scheme which assigns nationwide and/or regional WCS licenses will not promote the Commission's policy of flexible and innovative use of new spectrum. The highest valued use of the spectrum may be different in rural markets than in urban markets. Smaller license areas will enable carriers to target the distinct needs and characteristics of different markets and adjust their offerings based on the particular mix of wireless services already being offered in those markets.⁵ Commenters suggest a variety of potential applications for WCS, including wireless local loops, Internet access, distance learning, telemedicine, electronic mail systems, a return path for interactive video services, and communications support for railroad operations, water treatment and

³E.g., Comments of Rural Telecommunications Group at 3 (nationwide licenses "will have disastrous result for rural America"), GTE at 4.

⁴Comments of AirTouch Communications, Inc. at 6-7.

⁵E.g., Comments of AT&T Wireless Services, Inc. at 3-4, Bell Atlantic NYNEX Mobile, Inc. (BANM) at 4-5, BellSouth at 6-8, DSC Communications Corp. at 4, Digital Satellite Broadcasting Corp. (DSBC) at 8-9, Telephone & Data Systems, Inc. (TDS) at 2-4. While nationwide licensing with disaggregation may ultimately accomplish the same result, it would do so only after considerable delay and with a financial windfall to the nationwide licensee who leases or sells access to smaller markets.

management systems and petroleum and natural gas facilities.⁶ Smaller license areas will allow all of these applications to compete for access to the spectrum and ensure that licenses are awarded to entities that put them to their most efficient use, as Congress directed.

3. *Competition and Diversity of Ownership.* Smaller license areas will support Congress's objective in Section 309(j)(3) of "promoting economic opportunity and competition" in the auction process and the Commission's own policies promoting diversity of ownership.⁷ This licensing scheme will result in more applicants bidding for licenses and more carriers providing service. Conversely, awarding nationwide and/or regional licenses would greatly inhibit the ability of entities with more limited access to capital, particularly small businesses and minority groups, to participate in the auction.⁸

4. *Public Safety.* The Appropriations Act requires the Commission to take into account the needs of public safety services. Given that these needs are more localized,⁹ a licensing scheme which relies on smaller areas will best satisfy

⁶E.g., Comments of ADC Telecommunications Inc. at 8-9, BellSouth at 8, DSBC at 8-9, Ass'n of American Railroads at 7 (railroad use); American Petroleum Institute at 3 (oil and gas exploration and production sites, refineries and pipelines), American Water Works Ass'n at 2-3 (water supply networks), Bellcore at 2 (Internet access).

⁷E.g., Comments of Cellular Telecommunications Industry Ass'n (CTIA) at 13-14, RTG at 5-6, Pocket Communications at 3-4, Pacific Telesis Group at 2-3, Vanguard Cellular Systems, Inc. at 3-4.

⁸E.g., Comments of BANM at 6-8, CTIA at 12, DSBC at 7-10, Digivox Corp. at 4-5, Omnipoint Corp. at 9, Puerto Rico Telephone Co. at 2-3.

⁹E.g., Comments of AT&T at 5, Pocket Communications at 3, UTC at 4.

this statutory objective. Nationwide and/or regional licenses would, however, effectively preclude the use of WCS for public safety services, since few public safety entities have a jurisdiction that encompasses such large markets. The Commission should accommodate public safety spectrum needs by establishing smaller license areas for the WCS band.

For the reasons set forth herein and in the record of this proceeding, the Commission's choice among alternative service areas for the new WCS licenses should be clear. Employing MTAs, BTAs or EAs will fulfill the goals of the Communications Act and the Commission's policies. Nationwide and/or regional licenses will not. There is no legal or policy reason why the Commission should depart from the overwhelming views of the commenters -- and ample reasons of both law and policy why it should not.

Respectfully submitted,

BELL ATLANTIC CORPORATION

By: James G. Pachulski JTS
James G. Pachulski
1320 N. Courthouse Road, 8th Floor
Arlington, Virginia 22201
(703) 974-2804

Of Counsel:
Edward D. Young, III

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